

*Be it enacted by the Legislature of West Virginia:*

## **CHAPTER 60A. UNIFORM CONTROLLED SUBSTANCES ACT.**

### **ARTICLE 5. ENFORCEMENT AND ADMINISTRATIVE PROVISIONS.**

#### **§60A-5-501. Powers of enforcement personnel.**

1           (a) Any member of the State Police, any sheriff, any deputy sheriff, any municipal police  
2 officer and any campus police officer may in the enforcement of the provisions of this act:

3           (1) Carry firearms;

4           (2) Execute and serve search warrants, arrest warrants, subpoenas, and summonses  
5 issued under the authority of this state;

6           (3) Make arrests without warrant for any offense under this act committed in his presence,  
7 or if he has probable cause to believe that the person to be arrested has committed or is  
8 committing a violation of this act which may constitute a felony;

9           (4) Make seizures of property pursuant to this act; or

10          (5) Perform such other law-enforcement duties as said state Board of Pharmacy or said  
11 appropriate department, board or agency, as specified in section 301, designates.

12          (b) All officers, agents, inspectors, and representatives of the said state Board of  
13 Pharmacy and of the said appropriate department, board, or agency, as specified in section 301,  
14 and members of the State Police may execute and serve administrative warrants issued incident  
15 to the enforcement of the provisions of this act. Any such officer, agent, inspector, and  
16 representative of the said state Board of Pharmacy and of the said appropriate department, board,  
17 or agency, as specified in said section 301, may:

18          (1) Execute and serve subpoenas and summonses issued under the authority of this state;

19          (2) Make arrests without warrant for any offense under this act committed in his presence,  
20 or if he has probable cause to believe that the person to be arrested has committed or is  
21 committing a violation of this act which may constitute a felony; or

22 (3) Make seizures of property pursuant to this act.

23 (c) All prosecuting attorneys and the Attorney General, or any of their assistants, shall  
24 assist in the enforcement of all provisions of this act and shall cooperate with all agencies charged  
25 with the enforcement of the laws of the United States, of this state, and of all other states relating  
26 to controlled substances. All prosecuting attorneys are authorized to appoint the Attorney General  
27 or an assistant of the Attorney General as a special prosecutor to enforce provisions of this act.

**§60A-5-509. Unlawful retaliation against health care providers.**

1 (a) A health care provider has the right to exercise his or her professional judgement to  
2 decline to administer, dispense, or prescribe narcotics without being subject to actual or  
3 threatened acts of reprisal.

4 (b) It shall be unlawful for any person or entity to engage in any form of threats or reprisal,  
5 or to engage in, or hire, or conspire with others to commit acts or activities of any nature, the  
6 purpose of which is to punish, embarrass, deny or reduce privileges or compensation, or cause  
7 economic loss or to aid, abet, incite, compel or coerce any person to engage in such threats or  
8 reprisal, against a health care provider as a result of or in retaliation for the refusal of that health  
9 care provider to administer, dispense, or prescribe narcotics.

10 (c) Any person or entity who violates the foregoing shall be subject to a private right of  
11 action by the affected health care provider and shall be liable in the amount of three times the  
12 economic loss sustained as a direct and proximate result of the reprisal.

13 (d) A health care provider that prevails in an action brought pursuant to this section shall  
14 be entitled to an award of costs and attorney fees.

**§60A-5-510. Drug enforcement surge.**

1 The Governor, Attorney General, and the Superintendent of the West Virginia State Police  
2 shall provide by May 1, 2018, a report to the Legislature outlining a plan for a two year drug  
3 enforcement surge to combat the narcotic epidemic.

## ARTICLE 9. CONTROLLED SUBSTANCES MONITORING.

### §60A-9-5a. Practitioner requirements to access database and conduct annual search of the database; required rulemaking.

1 (a) All practitioners, as that term is defined in section one hundred-one, article two of this  
2 chapter who prescribe or dispense Schedule II, III or IV controlled substances shall register with  
3 the West Virginia Controlled Substances Monitoring Program and obtain and maintain online or  
4 other electronic access to the program database: *Provided*, That compliance with the provisions  
5 of this subsection must be accomplished within thirty days of the practitioner obtaining a new  
6 license: *Provided, however*, That no licensing board may renew a practitioner's license without  
7 proof that the practitioner meet the requirements of this subsection.

8 (b) Upon initially prescribing or dispensing any pain-relieving controlled substance for a  
9 patient and ~~at least annually~~ for each prescription thereafter should the practitioner or dispenser  
10 continue to treat the patient with controlled substances, all persons with prescriptive or dispensing  
11 authority and in possession of a valid Drug Enforcement Administration registration identification  
12 number and, who are licensed by the Board of Medicine as set forth in article three, chapter thirty  
13 of this code, the Board of Registered Professional Nurses as set forth in article seven, chapter  
14 thirty of this code, the Board of Dental Examiners as set forth in article four, chapter thirty of this  
15 code and the Board of Osteopathic Medicine as set forth in article fourteen, chapter thirty of this  
16 code shall access the West Virginia Controlled Substances Monitoring Program database for  
17 information regarding specific patients for whom they are providing pain-relieving controlled  
18 substances ~~as part of a course of treatment for chronic, nonmalignant pain but who are not~~  
19 ~~suffering from a terminal illness~~. The information obtained from accessing the West Virginia  
20 Controlled Substances Monitoring Program database for the patient shall be documented in the  
21 patient's medical record. A pain-relieving controlled substance shall be defined as set forth in  
22 section one, article three-a, chapter thirty of this code.

23 (c) The various boards mentioned in subsection (b) of this section above shall promulgate  
24 both emergency and legislative rules pursuant to the provisions of article three, chapter twenty-  
25 nine-a of this code to effectuate the provisions of this section.

## **CHAPTER 9 HUMAN SERVICES.**

### **ARTICLE 11. COMMISSIONER OF HUMAN SERVICES; POWERS, DUTIES AND RESPONSIBILITIES GENERALLY.**

#### **§9-2-14. Addiction, substance abuse, and overdose prevention.**

1 In order to address the opioid epidemic, the Secretary of the Department of Health and  
2 Human Resources shall develop and implement an amendment to the state's Medicaid program  
3 after obtaining any necessary approval or waiver from the federal government to prevent  
4 addiction, substance abuse, and drug overdoses, including as appropriate programs used by  
5 private insurers and other states for that purpose.

NOTE: The purpose of this bill is to address the opioid epidemic.

Strike-throughs indicate language that would be stricken from a heading or the present law and underscoring indicates new language that would be added.